

1.05
STATUTORY DEFINITIONS

(1)
Definition of “Act”

“Act” means a bodily movement.

(2)
Definition of “Benefit”

“Benefit” means anything of value or advantage, present or prospective.

(3)
Definition of “Calendar Year”

“Calendar Year” means three hundred sixty-five days actual time served without release, suspension or commutation of sentence, probation, pardon or parole, work furlough or release from confinement on any other basis.

(4)
Definition of “Community Supervision”

“Community supervision” means that portion of a felony imposed by the court pursuant to § 13-603, subsection I and served in the community after completing a period of imprisonment or served in prison in accordance with § 41-1604.07.

(5)
Definition of “Conduct”

“Conduct” means an act or omission and its accompanying culpable mental state.

(6)
Definition of “Crime”

“Crime” means a misdemeanor or a felony.

(7)
Definition of “Criminal Street Gang”

“Criminal street gang” means an ongoing formal or informal association of persons whose members or associates individually or collectively engage in the commission, attempted commission, facilitation or solicitation of any felony act and who has at least one individual who is a criminal street gang member.

(8)
Definition of “Criminal Street Gang Member”

“Criminal street gang member” means an individual to whom two of the following seven criteria that indicate criminal street gang membership apply:

- (a) Self-proclamation.
- (b) Witness testimony or official statement.
- (c) Written or electronic correspondence.
- (d) Paraphernalia or photographs.
- (e) Tattoos.
- (f) Clothing or colors.
- (g) Any other indicia of street gang membership.

(9a)(1)
Definition of “Intentionally”

“Intentionally” or “with the intent to” means, with respect to a result or to conduct described by a statute defining an offense, that a person’s objective is to cause that result or to engage in that conduct.

(9a)(2)
Definition of “Intent - Inference”

Intent may be inferred from all the facts and circumstances disclosed by the evidence. It need not be established exclusively by direct sensory proof. The existence of intent is one of the questions of fact for your determination.

Source: *State v. Quatsling*, 24 Ariz. App. 105, 536 P.2d 226 (1975), with “direct sensory proof” substituted for the language of the opinion.

(9b)
Definition of “Knowingly”

“Knowingly” means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.

(9c)
Definition of “Recklessly”

“Recklessly” means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the

situation. A person who creates such a risk but is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.

(9d)

Definition of “Criminal Negligence”

“Criminal negligence” means, with respect to a result or to a circumstance described by a statute defining an offense, that a person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(11)

Definition of “Dangerous Instrument”

“Dangerous instrument” means anything that under the circumstances in which it is use, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury.

(12)

Definition of “Deadly Physical Force”

“Deadly physical force” means force which is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury.

(13)

Definition of “Deadly Weapon”

“Deadly weapon” means anything designed for lethal use. The term includes a firearm.

(14)

Definition of “Economic Loss”

“Economic Loss” means any loss incurred by a person as a result of the commission of an offense. Economic loss includes lost interest, lost earnings and other losses which would not have been incurred but for the offense. Economic loss does not include losses incurred by the convicted person, damages for pain and suffering, punitive damages or consequential damages.

(15)

Definition of “Enterprise”

“Enterprise” includes any corporation, association, labor union or other legal entity.

(16)
Definition of “Felony”

“Felony” means an offense for which a sentence to a term of imprisonment in the custody of the state department of corrections is authorized by any law of this state.

(17)
Definition of “Firearm”

“Firearm” means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, except that it does not include a firearm in permanently inoperable condition.

(20)
Definition of “Intoxication”

“Intoxication” means any mental or physical incapacity resulting from use of drugs, toxic vapors or intoxicating liquors.

(24)
Definition of “Omission”

“Omission” means the failure to perform an act as to which a duty of performance is imposed by law.

(25)
Definition of “Peace Officer”

“Peace officer” means any person vested by law with a duty to maintain public order and make arrests.

(26)
Definition of “Person”

“Person” means a human being and, as the context requires, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in property.

(28)
Definition of “Physical Force”

“Physical force” means force used upon or directed toward the body of another person and includes confinement, but does not include deadly physical force.

(29)
Definition of “Physical Injury”

“Physical injury” means the impairment of physical condition.

(30)
Definition of “Possess”

“Possess” means knowingly to have physical possession or otherwise to exercise dominion or control over property.

(31)
Definition of “Possession”

“Possession” means a voluntary act if the defendant knowingly exercised dominion or control over property.

(32)
Definition of “Property”

“Property” means anything of value, tangible or intangible.

(33)
Definition of “Public Servant”

“Public servant” means any officer or employee of any branch of government, whether elected, appointed or otherwise employed, including a peace officer, and any person participating as advisor, consultant or otherwise in performing a governmental function. The term does not include jurors or witnesses. Public servant includes those who have been elected, appointed, employed or designated to become a public servant although not yet occupying that position.

(34)
Definition of “Serious Physical Injury”

“Serious physical injury” includes physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

Comment: A.R.S. § 13-3623(F)(5) defines serious physical injury identically, except that it provides for “serious **or** permanent disfigurement.”

(35)
Definition of “Unlawful”

“Unlawful” means contrary to law or, where the context so requires, not permitted by law.

(36)

Definition of “Vehicle”

“Vehicle” means a device in, upon or by which any person or property is or may be transported or drawn upon a highway, waterway or airway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(37)

Definition of “Voluntary Act”

“Voluntary act” means a bodily movement performed consciously and as a result of effort and determination.

(38)

Definition of “Voluntary Intoxication”

“Voluntary intoxication” means intoxication caused by the knowing use of drugs, toxic vapors or intoxicating liquors by a person, the tendency of which to cause intoxication the person knows or ought to know, unless the person introduces them pursuant to medical advice or under such duress as would afford a defense to an offense.

Source: A.R.S. § 13-105 (statutory language as of January 1, 2009).